

THE PICTSWEET COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 3:19-cv-00722
)	
R.D. OFFUTT FARMS CO.; R.D.)	Judge Aleta Trauger
OFFUTT COMPANY; R.D. OFFUTT)	
COMPANY-NORTHWEST; CRF)	
FROZEN FOODS, LLC,)	
)	
Defendants.)	
)	

Defendants R.D. Offutt Farms Co., R.D. Offutt Company, R.D. Offutt Company-Northwest, and CRF Frozen Foods, LLC (collectively, “Defendants”), through their undersigned counsel, respectfully move to partially exclude Plaintiff The Pictsweet Company’s (“Pictsweet”) expert Scott Stillwell pursuant to Federal Rule of Evidence 702 and Federal Rule of Civil Procedure 37(c).

Case 3:19-cv-00722 Document 217 Filed 06/10/22 Page 1 of 6 PageID #: 9295

opine on alter ego issues, and did not review any documents from this matter relevant to alter ego; (2) his repeated testimony on what a corporation and its “officials” *should* do improperly calls upon the jury to apply an incorrect legal standard in order to target Defendants and unnamed individuals with legal and ethical liabilities, and in so doing, supplants the Court’s role in announcing the relevant legal standards; and (3) Mr. Stillwell is not qualified—because he is a self-described administrator and not a microbiologist—to opine on whether a *Listeria monocytogenes* harborage existed and his proffered methodology, lacking in the information needed to make such a determination, is not reliable.

For these reasons, the Court should enter an order granting Defendants’ motion and partially excluding Pictsweet’s expert Scott Stillwell from testifying in this action.

Date: June 10, 2022

s/ Alyssa L. Rebensdorf
Alyssa L. Rebensdorf (admitted *pro hac vice*)
Bar: MN 0296478
Christine R. M. Kain (admitted *pro hac vice*)
Bar: MN 0387663
Jane Maschka (admitted *pro hac vice*)
Bar: MN 0389130
Emily Bodtke Zambrana (admitted *pro hac vice*)
Bar: MN 0397772
Joelle Groshek (admitted *pro hac vice*)
Bar: MN 0398377
Kyle Hosmer (admitted *pro hac vice*)
Bar: CO 53214
Machen Picard Bihrlle (admitted *pro hac vice*)
Bar: MN 0401680

Faegre Drinker Biddle & Reath LLP
90 S. 7th Street #2200
Minneapolis, MN 55402
Tel: (612) 766-7000
Alyssa.Rebensdorf@faegredrinker.com
Christine.Kain@faegredrinker.com
Jane.Maschka@faegredrinker.com
Emily.Zambrana@faegredrinker.com
Joelle.Groshek@faegredrinker.com
Kyle.Hosmer@faegredrinker.com

Machen.Bihrl@faegredrinker.com

Attorneys for R.D. Offutt Farms Co. and R.D. Offutt Company

and

s/ Cameron M. Watson

Kevin D. Bernstein (BPR #18543)

Cameron M. Watson (BPR #033613)

Christopher M. Williams (BPR #36256)

Albert G. McLean (BPR #5150)

Spicer Rudstrom, PLLC

119 South Main, Suite 700

Memphis, Tennessee 38103

Tel: (901) 522-2311

kdb@spicerfirm.com

cwatson@spicerfirm.com

cwilliams@spicerfirm.com

amclean@spicerfirm.com

Attorneys for CRF Frozen Foods, LLC, R.D. Offutt Company-Northwest, R.D. Offutt Farms Co., and R.D. Offutt Company

THE PICTSWEET COMPANY,

Plaintiff,

v.

R.D. OFFUTT FARMS CO.; R.D.
OFFUTT COMPANY; R.D. OFFUTT
COMPANY-NORTHWEST; CRF
FROZEN FOODS, LLC,

Defendants.

Date: June 10, 2022

Alyssa L. Rebensdorf (admitted *pro hac vice*)
Bar: MN 0296478

Christine R. M. Kain (admitted *pro hac vice*)
Bar: MN 0387663

Jane Maschka (admitted *pro hac vice*)
Bar: MN 0389130

Emily Bodtke Zambrana (admitted *pro hac vice*)
Bar: MN 0397772

Joelle Groshek (admitted *pro hac vice*)
Bar: MN 0398377

Kyle Hosmer (admitted *pro hac vice*)
Bar: CO 53214

Machen Picard Bihrl (admitted *pro hac vice*)
Bar: MN 0401680

Case 3:19-cv-00722 Document 217 Filed 06/10/22 Page 4 of 6 PageID #: 9298

90 S. 7th Street #2200
Minneapolis, MN 55402
Tel: (612) 766-7000
Alyssa.Rebensdorf@faegredrinker.com
Christine.Kain@faegredrinker.com
Jane.Maschka@faegredrinker.com
Emily.Zambrana@faegredrinker.com
Joelle.Groshek@faegredrinker.com
Kyle.Hosmer@faegredrinker.com
Machen.Bihrl@faegredrinker.com

Attorneys for R.D. Offutt Farms Co. and R.D. Offutt Company

and

s/ Cameron M. Watson

Kevin D. Bernstein (BPR #18543)
Cameron M. Watson (BPR #033613)
Christopher M. Williams (BPR #36256)
Albert G. McLean (BPR #5150)

Spicer Rudstrom, PLLC
119 South Main, Suite 700
Memphis, Tennessee 38103
Tel: (901) 522-2311
kdb@spicerfirm.com
cwatson@spicerfirm.com
cwilliams@spicerfirm.com
amclean@spicerfirm.com

Attorneys for CRF Frozen Foods, LLC, R.D. Offutt Company-Northwest, R.D. Offutt Farms Co., and R.D. Offutt Company

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

W. Brantley Phillips, Jr.
Meredith M. Thompson
Courtney A. Hunter
Paige Waldrop Mills
BASS, BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201
bphillips@bassberry.com
mthompson@bassberry.com
courtney.hunter@bassberry.com
pmills@bassberry.com

Frederic L. Gordon (admitted *pro hac vice*)
John Wayne Howard (admitted *pro hac vice*)
Alyssa Malchiodi (admitted *pro hac vice*)
Andrew Gilbert Nagurney (admitted *pro hac vice*)
Brian T. Attard (admitted *pro hac vice*)
JW HOWARD ATTORNEYS
701 B. Street, Suite 1725
San Diego, CA 92101
flg@jwhowardattorneys.com
johnh@jwhowardattorneys.com
alyssa@jwhowardattorneys.com
drew@jwhowardattorneys.com
brian@jwhowardattorneys.com

Kevin D. Bernstein (BPR #18543)
Cameron M. Watson (BPR #033613)
Christopher M. Williams (BPR #36256)
Albert G. McLean (BPR# 5150)
SPICER RUDSTROM, PLLC
119 South Main, Suite 700
Memphis, Tennessee 38103
kdb@spicerfirm.com
cwatson@spicerfirm.com
cwilliams@spicerfirm.com
amclean@spicerfirm.com

s/ Alyssa L. Rebensdorf
Alyssa L. Rebensdorf